

111TH CONGRESS  
1ST SESSION

# S. CON. RES. 19

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IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 2009

Referred to the Committee on Foreign Affairs

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## CONCURRENT RESOLUTION

Expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

Whereas in March 2009, the Shi'ite Personal Status Law was approved by the parliament of Afghanistan and signed by President Hamid Karzai;

Whereas according to the United Nations, the law legalizes marital rape by mandating that a wife cannot refuse sex to her husband unless she is ill;

Whereas the law also weakens mothers' rights in the event of a divorce and prohibits a woman from leaving her home unless her husband determines it is for a "legitimate purpose";

Whereas President Barack Obama has called the law "abhorrent" and stated that "there are certain basic principles that all nations should uphold, and respect for women

and respect for their freedom and integrity is an important principle”;

Whereas the United Nations High Commissioner for Human Rights has said that the law represents a “huge step in the wrong direction” and is “extraordinary, reprehensible and reminiscent of the decrees made by the Taliban regime in Afghanistan in the 1990s”;

Whereas the Secretary-General of the North Atlantic Treaty Organization (NATO) has asserted that passage of the law could discourage countries in Europe from contributing additional troops to help combat terrorism in the region;

Whereas President Karzai has instructed the Government of Afghanistan and members of the clergy to review the law and change any articles that are not in keeping with Afghanistan’s Constitution and Islamic Sharia;

Whereas the law includes provisions that are fundamentally incompatible with the obligations of the Government of Afghanistan under various international instruments to which it is a party;

Whereas Afghanistan is a signatory of the Universal Declaration of Human Rights (UDHR), which establishes the principle of nondiscrimination, including on the basis of sex, and states that men and women are entitled to equal rights to marriage, during marriage, and at its dissolution;

Whereas Afghanistan became a party to the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976 (ICESCR), which emphasizes the principle of self-determination, in that men and women may

freely determine their political status as well as their economic, social, and cultural development;

Whereas article 22 of the Constitution of Afghanistan (2003) prohibits any kind of discrimination between and privilege among the citizens of Afghanistan and establishes the equal rights of all citizens before the law;

Whereas the international community and the United States have a long-standing commitment to and interest in working with the people and Government of Afghanistan to re-establish respect for fundamental human rights and protect women's rights in Afghanistan; and

Whereas the provisions in the Shi'ite Personal Status Law that restrict women's rights are inconsistent with those goals: Now, therefore, be it

1       *Resolved by the Senate (the House of Representatives*  
2       *concurring)*, That Congress—

3               (1) urges the Government of Afghanistan to re-  
4       vise the Shi'ite Personal Status Law, including its  
5       provisions on marital rape and women's freedom of  
6       movement, to ensure its consistency with inter-  
7       nationally recognized rights of women, including  
8       those contained in treaties to which Afghanistan is  
9       a party;

10              (2) supports the decision by President Karzai  
11       to analyze the draft law and strongly urges him not  
12       to publish it until it has been revised to be con-  
13       sistent with internationally recognized rights of  
14       women;

(3) encourages the Secretary of State, the Special Representative to Afghanistan and Pakistan, the Ambassador-at-Large for Global Women's Issues, and the United States Ambassador to Afghanistan to consider and address the status of women's rights and security in Afghanistan to ensure that these rights are not being eroded through unjust laws, policies, or institutions; and

(4) encourages the Government of Afghanistan to solicit information and advice from the Ministry of Justice, the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, and women-led nongovernmental organizations to ensure that current and future legislation and official policies protect and uphold the equal rights of women, including through national campaigns to lead public discourse on the importance of women's status and rights to the overall stability of Afghanistan.

Passed the Senate May 21, 2009.

Attest: NANCY ERICKSON,  
*Secretary.*